

INSPECTION

§ 966.140 Truck shipments.

In case of the transportation by truck outside of the production area of any tomatoes which are required to be inspected and certified as complying with any applicable requirements under this part, such tomatoes shall be accompanied by, and made available for examination at any time upon request, a copy of the appropriate inspection certificate or a copy of the appropriate transfer clearance receipt issued by the Federal-State Inspection Service, the official inspection agency for this program, showing that such tomatoes have been so inspected and certified.

[21 FR 3000, May 5, 1956. Redesignated at 26 FR 12751, Dec. 30, 1961, as amended at 65 FR 8253, Feb. 18, 2000]

INTERPRETATIVE RULES

§ 966.150 Meaning of “producer”.

The term “producer” is defined in § 966.8 as being any person engaged in a proprietary capacity in the production of tomatoes for market. Under the definition of “tomatoes” in § 966.5, such production must have been in the production area. Section 966.22 provides that each person selected as a committee member or alternate must be a producer, or an officer or an employee of a corporate producer. Section 966.27 provides that producers may vote for nominees for members and alternates on the Florida Tomato Committee, the administrative agency established pursuant to said marketing agreement and order. Section 966.3 defines a person as an individual, partnership, corporation, association, or other business unit. The term “person” is construed to mean the business unit which produces the tomatoes for market.

(a) The prevailing principle which shall apply to the determination of “producer” is who or which interest as a unit, whether an individual, partnership, corporation, association, or any other business unit, has the authority to pass title to the tomatoes grown and made a part of the marketable supply of tomatoes. In other words, the terms shall be limited to those who have an

ownership in tomatoes produced in the production area.

(b) *Producer* means any person, as defined in this section:

(1) Who or which owns and farms land resulting in his or its ownership of the tomatoes produced thereon;

(2) Who or which rents or farms land, resulting in his or its ownership of all or a portion of the tomatoes produced thereon; or

(3) Who or which owns land which he or it does not farm and, as rental for such land, obtains the ownership of a portion of the tomatoes produced thereon.

(c) The term “partnership” shall be deemed to include a husband and wife with respect to land, the title to which, or leasehold interest in which, is vested in them as tenants in common, joint tenants, tenants by entirety, or, under community property laws, as community property. The term “partnership” shall also be deemed to include individuals, partnerships or corporations which join together by agreement, informal or otherwise, for the purpose of growing tomatoes and which, as a unit, have authority to transfer title to such tomatoes at the time they are harvested or subsequent thereto. The term “partnership” shall also include so-called “joint ventures,” wherein one or more parties to the arrangement contributes capital and others contribute labor, management, equipment, or other services, or any variation of such contributions by two or more parties, so that it results in the growing of tomatoes and the authority to transfer title to the tomatoes so produced from that business unit to some other parties in the marketing chain.

(d) Each legal entity, whether an individual, a partnership, a “joint venture,” or a corporation, so engaged in the production of tomatoes for market shall have one vote for each position which is to be filled for the district for which he or it is eligible to vote. In the case of a partnership or a “joint venture,” such vote shall not be accepted in the absence of unanimous agreement of the respective members. In the case of a corporation, such vote shall be cast pursuant to the authorization of its board of directors. In the case of a person who owns land which he or it

Agricultural Marketing Service, USDA

§ 966.323

does not farm but, as rental for such land, obtains the ownership of a portion of the tomatoes produced thereon, such person shall be regarded as the producer of that portion and entitled to one vote, and the tenant on such land shall be regarded as the producer of the remaining portion produced on such land and also entitled to one vote.

(e) A producer eligible to vote is a person who produced tomatoes for market in a proprietary capacity in the production area during the then current fiscal period, i.e., between August 1, of the previous year and July 31 of the then current year. If a person who would otherwise qualify as a producer in a proprietary capacity in the production area planted tomatoes for market as fresh tomatoes during the current fiscal period, but (1) did not market any tomatoes in the fresh market during the current fiscal period due to adverse weather conditions, or (2) has tomatoes in production for fresh market during the current fiscal period, although still unharvested, he shall, nevertheless, be eligible as a producer to vote for committee nominees, if he produced and marketed tomatoes grown in the production area in the next preceding fiscal period.

[23 FR 2588, Apr. 19, 1958. Redesignated at 26 FR 12751, Dec. 30, 1961]

REESTABLISHMENT OF DISTRICTS

§ 966.160 Reestablishment of districts.

(a) District No. 1: The county of Dade in the State of Florida.

(b) District No. 2: The counties of Brevard, Glades, Indian River, Martin, Osceola, Okeechobee, Palm Beach, St. Lucie, and Broward in the State of Florida.

(c) Terms used in this section have the same meaning as when used in said marketing agreement and this part.

[35 FR 19633, Dec. 25, 1970]

§ 966.161 Reapportionment of Committee Membership.

Pursuant to § 966.25, industry membership on the Florida Tomato Committee shall be reapportioned as follows:

(a) District 1—two members and their alternates.

(b) District 2—two members and their alternates.

(c) District 3—four members and their alternates.

(d) District 4—four members and their alternates.

[50 FR 3738, Jan. 28, 1985, as amended at 60 FR 5560, Jan. 30, 1995]

Subpart—Assessment Rates

§ 966.234 Assessment rate.

On and after August 1, 2015, an assessment rate of \$0.03 per 25-pound container is established for Florida tomatoes.

[80 FR 73644, Nov. 25, 2015]

Subpart—Handling Regulations

§ 966.323 Handling regulation.

From October 10 through June 15 of each season, except as provided in paragraphs (b) and (d) of this section, no person shall handle any lot of tomatoes produced in the production area for shipment outside the regulated area unless it meets the requirements of paragraph (a) of this section.

(a) *Grade, size, container, and inspection requirements*—(1) *Grade*. Tomatoes shall be graded and meet the requirements specified for U.S. No. 1, U.S. Combination, or U.S. No. 2 of the U.S. Standards for Grades of Fresh Tomatoes. When not more than 15 percent of the tomatoes in any lot fail to meet the requirements of U.S. No. 1 grade and not more than one-third of this 15 percent (or 5 percent) are comprised of defects causing very serious damage including not more than 1 percent of tomatoes which are soft or affected by decay, such tomatoes may be shipped and designated as at least 85 percent U.S. No. 1 grade.

(2) *Size*. (i) All tomatoes packed by a registered handler shall be at least $2\frac{9}{32}$ inches in diameter and shall be sized with proper equipment in one or more of the following ranges of diameters. Tomatoes shipped outside the regulated area shall also be sized with proper equipment in one or more of the following ranges of diameters. Measurements of diameters shall be in accordance with the methods prescribed in